

Senate File 239 - Introduced

SENATE FILE 239
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1082)

A BILL FOR

1 An Act relating to explosive materials including blasting
2 agents, detonators, and destructive devices, providing
3 penalties, and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 101A.1, subsections 1 and 4, Code 2023,
2 are amended to read as follows:

3 1. "*Blasting agent*" means any material or mixture consisting
4 of a fuel and oxidizer, intended for blasting but not otherwise
5 classified as an explosive, in which none of the finished
6 products as mixed and packaged for use or shipment can be
7 detonated by means of a number eight test blasting cap when
8 unconfined. "Blasting agent" includes any material or mixture
9 intended for blasting that meets the requirements of 49 C.F.R.
10 pt. 173, subpt. C.

11 4. "*Explosive materials*" means explosives, ~~or~~ blasting
12 agents, and detonators.

13 Sec. 2. Section 101A.1, Code 2023, is amended by adding the
14 following new subsections:

15 NEW SUBSECTION. 2A. "*Destructive device*" means any of the
16 following:

17 a. Any explosive, incendiary, chemical or biological poison,
18 or poison gas which is any of the following:

19 (1) A bomb.

20 (2) A grenade.

21 (3) A rocket having a propellant charge of more than four
22 ounces.

23 (4) A missile having an explosive or incendiary charge of
24 more than one-quarter ounce.

25 (5) A mine.

26 (6) A booby trap.

27 (7) A Molotov cocktail.

28 (8) A bottle bomb.

29 (9) A vessel or container intentionally caused to rupture or
30 mechanically explode by expanding pressure from any gas, acid,
31 dry ice, or other chemical mixture.

32 (10) Any similar device, the primary or common purpose of
33 which is to explode and to be used as a weapon against any
34 person or property.

35 b. Any combination of parts designed or intended to be

1 converted into a destructive device as defined in paragraph "a".

2 c. The term "*destructive device*" does not include any of the
3 following:

4 (1) A device that is neither designed nor redesigned for use
5 as a weapon to be used against person or property.

6 (2) A device, originally designed for use as a weapon,
7 that is redesigned for use as a signaling, pyrotechnic,
8 line-throwing, safety, or similar device.

9 (3) A surplus ordnance sold, loaned, or given by the
10 secretary of the army pursuant to 10 U.S.C. §4684(2), 4685, or
11 4686.

12 (4) Any device the state fire marshal determines is not
13 likely to be used as a weapon or that is an antique.

14 (5) Any device possessed under circumstances negating an
15 intent that the device be used as a weapon against any person
16 or property.

17 NEW SUBSECTION. 2B. "*Detonator*" means any device containing
18 an initiating or primary explosive that is used for initiating
19 detonation. Excluding ignition or delay charges, a detonator
20 shall not contain more than ten grams of explosive material
21 per unit. "*Detonator*" includes an electric detonator of
22 instantaneous or delay type, a detonator for use with safety
23 fuses, a detonating cord delay connector, and a nonelectric
24 detonator or instantaneous or delay type which consists of
25 a detonating cord, shock tube, or any other replacement for
26 electric leg wires.

27 Sec. 3. Section 712.5, Code 2023, is amended by striking the
28 section and inserting in lieu thereof the following:

29 **712.5 Reckless use of fire, explosives, or destructive**
30 **devices.**

31 Any person who uses fire, explosives, or destructive devices
32 to recklessly endanger the property or safety of another shall
33 be guilty of a serious misdemeanor.

34 Sec. 4. Section 712.6, Code 2023, is amended to read as
35 follows:

1 **712.6 Explosive materials or ~~incendiary materials~~ or**
2 **destructive devices.**

3 1. A person who possesses any ~~incendiary or~~ explosive device
4 ~~or material or~~ destructive device with the intent to use such
5 device or material to commit a public offense shall be guilty
6 of a class "C" felony.

7 2. a. A person who possesses any ~~incendiary or~~ explosive
8 ~~device or material or~~ destructive device shall be guilty of an
9 aggravated misdemeanor.

10 b. ~~This subsection~~ does not apply to a person holding a
11 valid commercial license or user's permit issued pursuant to
12 chapter 101A, provided that the person is acting within the
13 scope of authority granted by the license or permit.

14 3. A person who, with the intent to intimidate, annoy, or
15 alarm another person, places a simulated explosive or simulated
16 ~~incendiary destructive device in or near an occupied structure~~
17 ~~as defined in section 702.12~~ a place that the person reasonably
18 believes is likely to cause public alarm or inconvenience, is
19 guilty of a serious misdemeanor.

20 4. A person who uses any explosive material or destructive
21 device to commit any public offense or who possesses any
22 explosive material or destructive device during the commission
23 of a felony shall be guilty of a class "C" felony.

24 Sec. 5. NEW SECTION. 712.10 **Destructive device.**

25 For purposes of this chapter, "*destructive device*" means the
26 same as defined in section 101A.1.

27 Sec. 6. Section 724.1, subsection 1, paragraph c, Code 2023,
28 is amended to read as follows:

29 c. ~~A bomb, grenade, or mine, whether explosive, incendiary,~~
30 ~~or poison gas; any rocket having a propellant charge of more~~
31 ~~than four ounces; any missile having an explosive charge of~~
32 ~~more than one-quarter ounce; or any device similar to any of~~
33 ~~these~~ A destructive device as defined in section 101A.1.

34 Sec. 7. Section 727.2, subsection 3, Code 2023, is amended
35 by adding the following new paragraph:

1 NEW PARAGRAPH. *d.* Any retailer or community group offering
2 for sale at retail any consumer fireworks shall do so in
3 accordance with the national fire protection association
4 standard 1124, published in the code for the manufacture,
5 transportation, storage, and retail sales of fireworks and
6 pyrotechnic articles, 2006 edition, and shall not be subject to
7 any other standards or requirements unless provided for by the
8 state fire marshal under section 100.19.

9 Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate
10 importance, takes effect upon enactment.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill relates to explosive materials including blasting
15 agents, detonators, and destructive devices.

16 CODE CHAPTER 101A (EXPLOSIVE MATERIALS) — DEFINITIONS.

17 For purposes of Code chapter 101A, the bill makes changes to
18 definitions. The bill amends the definition of "blasting
19 agent" to include any material or mixture intended for blasting
20 that meet the requirements of 49 C.F.R. pt. 173, subpt.

21 C (federal regulations relating to the transportation of
22 hazardous materials). The definition of "explosive materials"
23 is amended to include detonators.

24 The bill defines "detonator" as any device containing an
25 initiating or primary explosive that is used for initiating
26 detonation, and includes an electric detonator of instantaneous
27 or delay type, a detonator for use with safety fuses, a
28 detonating cord delay connector, and a nonelectric detonator
29 or instantaneous or delay type which consists of a detonating
30 cord, shock tube, or any other replacement for electric leg
31 wires.

32 The bill defines "destructive device" as any explosive,
33 incendiary, chemical or biological poison, or poison gas which
34 is any of the following: a bomb, a grenade, a rocket having a
35 propellant charge of more than four ounces, a missile having

1 an explosive or incendiary charge of more than one-quarter
2 ounce, a mine, a booby trap, a Molotov cocktail, a bottle
3 bomb, a vessel or container intentionally caused to rupture
4 or mechanically explode, and any similar device, the primary
5 or common purpose of which is to explode and to be used as a
6 weapon against any person or property. The bill provides that
7 a "destructive device" does not include: a device that is
8 neither designed nor redesigned for use as a weapon to be used
9 against person or property; a device, originally designed for
10 use as a weapon, that is redesigned for use as a signaling,
11 pyrotechnic, line-throwing, safety, or similar device; a
12 surplus ordnance sold, loaned, or given by the secretary of
13 the army; any device that the state fire marshal finds is not
14 likely to be used as a weapon or that is an antique; or any
15 device possessed under circumstances negating an intent that
16 the device be used as a weapon against any person or property.

17 RECKLESS USE OF FIRE, EXPLOSIVES, OR DESTRUCTIVE DEVICES.

18 The bill provides that any person who uses fire, explosives,
19 or destructive devices as defined in the bill to recklessly
20 endanger the property or safety of another is guilty of a
21 serious misdemeanor.

22 EXPLOSIVE MATERIALS OR DESTRUCTIVE DEVICES — PENALTIES.

23 The bill provides that a person who possess any explosive
24 material or destructive device with the intent to commit a
25 public offense commits a class "C" felony. A person who
26 possesses any explosive material or destructive device commits
27 an aggravated misdemeanor. A person who, with the intent to
28 intimidate, annoy, or alarm another person, places a simulated
29 explosive or simulated destructive device in a place that the
30 person reasonably believes is likely to cause public alarm or
31 inconvenience commits a serious misdemeanor. The bill provides
32 that a person who uses any explosive material or destructive
33 device to commit any public offense or who possesses an
34 explosive material or destructive device during the commission
35 of a felony is guilty of a class "C" felony.

1 OFFENSIVE WEAPONS. The bill amends the definition of
2 "offensive weapon" for purposes of Code section 724.1
3 (offensive weapons) to include the definition of a destructive
4 device as defined in the bill. Any unauthorized person who
5 knowingly possesses an offensive weapon commits a class "D"
6 felony.

7 FIREWORKS. The bill provides that a retailer or community
8 group selling fireworks shall comply with the national
9 fire protection association standard for the manufacture,
10 transportation, storage, and retail sales of fireworks.

11 PENALTIES. A serious misdemeanor is punishable by
12 confinement for no more than one year and a fine of at least
13 \$430 but not more than \$2,560. An aggravated misdemeanor is
14 punishable by confinement for no more than two years and a fine
15 of at least \$855 but not more than \$8,540. A class "D" felony
16 is punishable by confinement for no more than five years and a
17 fine of at least \$1,025 but not more than \$10,245. A class "C"
18 felony is punishable by confinement for no more than 10 years
19 and a fine of at least \$1,370 but not more than \$13,660.

20 The bill takes effect upon enactment.